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Elizabeth M. Hagood
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Edwin H. Cooper, III
Vice Chairman
Steven G. Kisner
Secretary



C. Earl Hunter, Commissioner

Promoting and protecting the health of the public and the environment.

BOARD:
Henry C. Scott
Paul C. Aughtry, III
Glenn A. McCall
Coleman F. Buckhouse, MD

**Minutes of
S.C. Board of Health and Environmental Control
Meeting**

October 6, 2005

The S.C. Board of Health and Environmental Control met on Thursday, October 6, 2005, at 10:00 a.m. in the S.C. Department of Health and Environmental Control Board Room, 2600 Bull Street, Columbia, S.C. (Attachment 0-1)

The following members were in attendance:

Elizabeth M. Hagood, Chairman
Member-at-large

Edwin H. Cooper, III, Vice-Chairman
Charleston, 1st District

Henry C. Scott
Allendale, 2nd District

Steven G. Kisner
Aiken, 3rd District

Glenn A. McCall
Rock Hill, 5th District

Coleman F. Buckhouse, MD
Florence, 6th District

Also in attendance were Commissioner Earl Hunter and guests. (Attachment 0-2)

Chairman Hagood stated notice of this meeting has been provided to all persons, organizations and news media, which have requested notification, as required by section 30-4-80(e) of the South Carolina Code of Laws.

Item 1: Consideration of September 20, 2005, meeting minutes - For Approval (Attachment 1-1)

Mr. Scott moved, seconded by Mr. McCall, to approve the minutes of the September 20, 2005, meeting. Approved

Item 2: Monthly Award for Excellence – October 2005 (Attachment 2-1)

Commissioner Hunter recognized the following:

Commissioner's Office – Owen Reese;
Environmental Quality Control – Lynn Barnes;
Health Regulation – Jeanette Singley;
Health Services – Deborah Goodwin;
Region 1 Public Health District – Susan Thompson;
Region 2 Public Health District – Jane Yates;
Region 3 Public Health District – Gil Potter, MD;
Region 4 Public Health District – Lee County WIC Program/Becky Corbett, Kathy Huggins;
Region 5 Public Health District – Jackie Sizemore;
Region 6 Public Health District – Louise Chandley;
Region 8 Public Health District – Colleton County Health Department;
OCRM/Charleston – Richard Geer.

Mr. Michael McShane, Chairmen, SC Board of Natural Resources, presented the following staff with recognition from the SC Department of Natural Resources for their assistance with DNR staff that responded to the Gulf Coast Disaster after Hurricane Katrina: Angie Olawsky, Pat Thomas, Tina Shadley, Nancy Allen, Dr. Bob Marino, Dr. Tom Fabian, Ron Kinney and Doug Calvert.

Item 3: Proposed Repeal of R.61-85, Prevention and Control of Lead Poisoning in Children, Legislative Review is Required (Attachment 3-1)

Mr. Michael Longshore, Bureau of Environmental Health, presented the item to the Board. This regulation was promulgated and implemented in 1981; there have been no changes in this regulation since. The regulation reflects protocols and procedures that have significantly changed since its inception and is now inconsistent with protocols and procedures prescribed by the Centers for Disease Control and Prevention regarding childhood lead poisoning. The 2005 revision of the South Carolina Lead Poisoning Prevention and Control Act, South Carolina Code of Laws, Sections 44-53-1310 to -1480, has rendered R.61-85 obsolete; the public health concerns that R.61-85 was intended to address are now addressed through the revised statute. The revised statute also authorizes the Department to promulgate regulations, as needed, in support of the statute.

Dr. Buckhouse moved, seconded by Mr. McCall, to grant initial approval to publish a Notice of Proposed Regulation in the State Register, to provide opportunity for public comment, and to conduct a staff informational forum to receive and consider comments, and to allow staff to proceed with a public hearing before the Board. Approved.

Item 4: Proposed Revision of R.61-30, Environmental Protection Fees, Legislative Review is Required (Attachment 4-1)

Mr. Jeff DeBessonnet, Bureau of Water, presented this item to the Board. Pursuant to S.C. Code Section 48-2-50 (1993), the Department shall charge fees for environmental programs it administers pursuant to federal and state law and regulations. R.61-30, *Environmental Protection Fees*, prescribes those fees applicable to applicants and holders of permits, licenses, certificates, certifications, and registrations and establishes schedules for timely action on permit applications. This regulation also establishes procedures for the payment of fees, provides for the assessment of penalties for nonpayment, and establishes an appeals process to contest the calculation or applicability of the fees. The Department is proposing to amend R.61-30, to revise the recreational waters fees to match the current budget proviso (which is the amount the Department is already charging).

Dr. Buckhouse moved, seconded by Mr. Scott, to grant initial approval to publish a Notice of Proposed Regulation in the State Register, to provide opportunity for public comment, and to conduct a staff informational forum to receive and consider comments, and to allow staff to proceed with a public hearing before the Board. Approved.

Item 5: Proposed Revision of R.61-7, Emergency Medical Services, Legislative Review is Required (Attachment 5-1)

Mr. Alonzo Smith, Division of Emergency Medical Services, presented this item to the Board. As a result of the review of this regulation, statutory mandates, and need to update and improve the overall quality of the regulation, the Department is proposing to revise R.61-7. This proposed revision will: bring it up to date with current statutes and practices; update and expand definitions; add enforcement action procedures to include classification of violations and guidelines for monetary penalties; update licensing procedures and requirements; update the standards for ambulance permits; update equipment lists for both ground and air ambulances; update sections related to training and certification of EMTs; add a section which provides for patient records; add a severability clause; and revise style, language and grammar for clarity, readability and consistency.

Mr. Scott moved, seconded by Mr. McCall, to grant initial approval to publish a Notice of Proposed Regulation in the State Register, to provide opportunity for public comment, and to conduct a staff informational forum to receive and consider comments, and to allow staff to proceed with a public hearing before the Board. Approved.

Item 6: Proposed Amendment of R.61-47, Shellfish, Legislative Review is required (Attachment 6-1)

Mr. David Baize, Bureau of Water, presented this item to the Board. R.61-47, Shellfish prescribes requirements for producers, processors, and transporters of shellfish and is intended to protect the health of consumers of shellfish. The Department is proposing to amend R.61-47, Shellfish, to ensure consistency with other Department regulations, revise the Regulation to bring

it up to date with current National Shellfish Sanitation Program guidance and practices; include a section on severability; update and expand definitions; update certification and permitting procedures; update growing area survey and classification standard references; update requirements for the harvesting, handling and transportation of shellfish; update compliance and inspection procedures; update certified shipper facility and aquaculture requirements; and revise style, language, and grammar for clarity, readability and consistency.

Dr. Buckhouse moved, seconded by Mr. Kisner, to grant initial approval to publish a Notice of Proposed Regulation in the State Register, to provide opportunity for public comment, and to conduct a staff informational forum to receive and consider comments, and to allow staff to proceed with a public hearing before the Board. Approved.

Item 7: Proposed Repeal of Regulations 121-1, Capacity Use Declaration, Waccamaw Area and 121-2, Capacity Use Declaration, Low Country Area

Proposed New Regulation 61- , Groundwater Use and Reporting, Legislative Review is Required (Attachment 7-1)

Mr. Baize presented this item to the Board. Regulation 121-1, Capacity Use Declaration, Waccamaw Area was promulgated in 1979 pursuant to the 1976 S.C. Code Section 49-5-50 and 49-5-90, and is specific to the counties described therein. Regulation 121-2, Capacity Use Declaration, Low Country Area was promulgated in 1981 pursuant to the 1976 S.C. Code Section 49-5-50 and 49-5-90, and is specific to the counties described therein. Pursuant to the 1976 S.C. Code Section 49-5-60 (amended 2000), Capacity Use Area designations for the Trident Area and the Pee Dee Area were made in 2002 and 2004, respectfully. Existing Regulations 121-1 and 121-2 do not apply to the newly designated Capacity Use Areas. The proposed new regulation will delete the geographical description of the Waccamaw and Low Country Capacity Use Areas and associated exhibits. The proposed new regulation will provide procedures necessary for obtaining a permit to withdraw, obtain, or utilize groundwater and construct, maintain, and operate groundwater withdrawal wells within designated Capacity Use Areas including, but not limited to, submission of information concerning the amount of groundwater withdrawal, its intended use, aquifer or aquifers utilized, well construction information, conservation and management programs, and other information necessary to aid in evaluating the effect of existing or proposed groundwater withdrawal or use on the water resource of the area or areas. The regulation will also provide measures to abate and/or control saltwater encroachment, and for measures to prevent or mitigate unreasonable adverse effects on water users or water uses within designated Capacity Use Areas.

Mr. Scott moved, seconded by Mr. McCall, to grant initial approval to publish a Notice of Proposed Regulation in the State Register, to provide opportunity for public comment, and to conduct a staff informational forum to receive and consider comments, and to allow staff to proceed with a public hearing before the Board. Approved.

Item 8: Administrative and Consent Orders issued by Environmental Quality Control (August 1, 2005 through August 31, 2005) – For Information (Attachment 8-1)

Ms. Claire Prince, Director, Enforcement and Compliance Assistance, Environmental Quality Control, stated twenty-nine (29) orders had been issued with penalties of \$185,100.

The Board accepted this item as information.

Item 9: Administrative Orders, Consent Orders, and Sanction Letters issued by Health Regulation (August 1, 2005 through August 31, 2005) – For Information (Attachment 9-1)

Mr. Andrew Roxburgh, Health Regulations, stated one (1) order had been issued with penalties of \$5,000.

The Board accepted this item as information.

Item 10: Oconee County Health Department – Financial Assistance from the FY2006 Commissioner's State Discretionary Fund (Attachment 10-1)

Commissioner Hunter asked the Board for approval to commit \$19,169 in FY2006 Commissioner's Discretionary Funds to Oconee County Health Department to provide financial assistance for the acquisition of a new heating and air condition system for the Walhalla facility.

Mr. Cooper moved, seconded by Dr. Buckhouse, to approve the requested expenditure. Approved.

Item 11: Proposed Amendment of R.30-1, Statement of Policy, R.30-12, Specific Project Standards for Tidelands and Coastal Waters (DHEC Coastal Division regulations for permitting in the Critical Areas of the Coastal Zone; Re: Permitting of Access to Islands (Attachment 11-1)

Ms. Carolyn Boltin, Deputy Commissioner for Ocean and Coastal Resource Management, and Mr. Richard Chinnis, Office of Ocean and Coastal Resource Management, presented this item to the Board. The proposed regulatory changes will replace the existing regulation R.30-12.N, Access to Small Islands, which was declared invalid due to vagueness in the February 22, 2005, decision of the SC Supreme Court. These proposed changes would add definitions and detailed project standards to be utilized in the evaluation of permits for access to islands. The changes are proposed to address the gap in the critical area regulations created by the Supreme Court decision and ensure consistent and effective Department review of applications for access to islands. Generally, the language proposed provides more specific, protective and enforceable standards for the management of coastal islands, which are important and distinct features of the South Carolina coast. Mr. Will Cleveland, Marsh Islands Advisory Committee and Mr. Hank Johnston, Mayor, City of Bluffton, were present to speak on this issue. Letters of support from the members of the Marsh Islands Advisory Committee were provided to the Board. (Attachment 11-2)

Mr. Scott moved, seconded by Mr. McCall, to go into Executive Session for the purpose of receiving legal advice in regard to the regulation of Marsh Islands.

While in Executive Session, no actions were taken.

Mr. Cooper moved, seconded by Dr. Buckhouse, to grant initial approval to publish a Notice of Proposed Regulation in the State Register, to provide opportunity for public comment, and to conduct a staff informational forum to receive and consider comments, and to allow staff to proceed with a public hearing before the Board on the package as presented with amendments as follows: delete ownership section, add standard severability clause and correct county in which Edisto Island is located. Approved.

After further discussion on this issue and a recommendation of Mr. Johnston that immediate action be taken, ***Mr. McCall moved, seconded by Mr. Scott, to direct the Department to promulgate the proposed regulation as an Emergency Regulation. Approved.***

Item 12: Agency Affairs

Commissioner Hunter reported the following:

1. Pass-thru funds (Attachment 12-1);
2. Flu Season Reminder (the Board asked for report at a later date on the agency response to a Flu Pandemic).

Item 8: Legal Report – For Information

Mr. Carl Roberts updated the Board on legal matters.

Mr. Scott moved, seconded by Mr. McCall, to adjourn. Approved.

All referenced attachments are made a permanent part of these minutes.

Respectfully submitted,

Steven G. Kisner
Secretary of the Board

Minutes approved this 10th day of November 2005.

ATTEST:

Elizabeth M. Hagood
Chairman

Attachments

- 0-1 Agenda
- 0-2 Sign-in Sheet
- 1-1 September 20, 2005, Board Meeting minutes
- 2-1 Monthly Award for Excellence for October 2005
- 3-1 Proposed Repeal of R.61-85, Prevention and Control of Lead Poisoning in Children
- 4-1 Proposed Amendment of R.61-30, Environmental Protection Fees
- 5-1 Proposed Amendment of R.61-7, Emergency Medical Services
- 6-1 Proposed Amendment of R.61-47, Shellfish
- 7-1 Proposed Repeal of Regulations 121-1&2 and Proposed New Regulation 61-____, Groundwater Use and Reporting
- 8-1 Administrative and Consent Orders Report - EQC
- 9-1 Administrative Orders, Consent Orders and Sanctions Letters Report – Health Regulation
- 10-1 FY2006 Commissioner’s Discretionary Fund Commitment
- 11-1 Proposed Amendment of R.30-12, Specific Project Standards for Tidelands and Coastal Waters, RE: Permitting of Access to Islands
- 12-1 Pass-thru funds report